

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,  
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN  
DRUG CORPORATION, et al.,  
Defendants.

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CABELL COUNTY COMMISSION,  
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01665

AMERISOURCEBERGEN  
DRUG CORPORATION, et al.,  
Defendants.

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**NOTICE OF VIDEOTAPED IN-PERSON RULE 30(b)(6) DEPOSITION OF  
CABELL HUNTINGTON HOSPITAL**

Defendants AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; and McKesson Corporation (“Defendants”) hereby give notice that a videotaped deposition or depositions will be taken pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure of Dr. Hoyt Burdick, the 30(b)(6) designee for Cabell Huntington Hospital, upon the particular topics described below. The deposition will be held on Friday, July 24, 2020, beginning at 2:00 pm at Bailes, Craig, Yon & Sellards PLLC, 401 Tenth Street, Suite 500, Huntington, West Virginia 25701, or such other location agreed to by the parties before a court reporter or some other officer authorized to administer oaths.

## **DEFINITIONS**

The following terms shall have the meanings set forth below. Notwithstanding any definition set forth below, each word, term, or phrase used in these Requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure and the Local Rules of Procedure for the Southern District of West Virginia.

1. “You” and “Your” refers to the Cabell Huntington Hospital (“Hospital”) and all others acting on the Hospital’s behalf, including any affiliates, programs, employees, directors, agents, contractors, representatives, board members, committees, subcommittees, working groups, and task forces.

2. “Plaintiffs” means, collectively, the plaintiffs named in this action, the City of Huntington and Cabell County, including but not limited to its executive and legislative branches, agencies, offices, departments, divisions, commissions, committees, subcommittees, boards, directors, administrators, employees, agents, contractors, vendors, instrumentalities, representatives, counsel, and all persons and entities acting or purporting to act under their control or on their behalf.

3. “Defendants” means, collectively, AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; and McKesson Corporation, the named defendants in this action, and their present or former officers, directors, shareholders, employees, agents, representatives, counsel and all persons and entities acting or purporting to act under their control or on their behalf.

4. “Person” means any individual, corporation, firm, partnership, joint venture, unincorporated association, trade association, governmental entity, dealer group, council or other incorporation or unincorporated entity, business entity or group of individuals or entities, singular or plural, as the content may require.

5. “Communication” has the full meaning ascribed to it by Local Rule of Civil Procedure 26.2(c)(1), and means any transmission of information (whether formal or informal) by one or more Persons and/or between two or more Persons by means including, but not limited to, telephone conversations, letters, faxes, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and face-to-face conversations.

6. “Document” has the full meaning ascribed to it by Federal Rule of Civil Procedure 34(a) and Local Rule of Civil Procedure 26.2(c)(2), and means the complete original (or complete copy where the original is unavailable) and each non-identical copy (where different from the original because of notes made on the copy or otherwise) of any writing or record, including, but not limited to, all written, typewritten, handwritten, printed, or graphic matter of any kind or nature, however produced or reproduced, any form of collected data for use with electronic data processing equipment, and any mechanical or electronic visual or sound recordings or text messages in Your possession, custody, or control. “Documents” include, but are not limited to, Communications (as defined above), books, papers, contracts, memoranda, invoices, correspondence, notes, studies, reports, manuals, photographs, drawings, charts, graphs, data compilations, other writings, microfilm, microfiche, audio recordings, video recordings, electronic mail, and any other information stored in electronic form, and each different version or copy of each Document, including, but not limited to, drafts.

7. “Licensed Medical Professional” means any individual prescriber employed by the Hospital, including, but not limited to, physicians, podiatric physicians, osteopathic physicians, dentists, physician assistants, licensed practical nurses, advanced practice registered nurses, and registered nurses.

8. The “Litigation” means *City of Huntington v. AmerisourceBergen Drug Corp., et al.*, Civil Action No. 3:17-01362, and *Cabell County Commission v. AmerisourceBergen Drug Corp., et al.*, Civil Action No. 3:17-01665.

9. “Prescription Opioids” means FDA-approved pain-reducing medications that consist of natural, synthetic, or semisynthetic chemicals that bind to opioid receptors in the brain or body to produce an analgesic effect, including but not limited to prescription medications containing hydrocodone, oxycodone, fentanyl, and hydromorphone, that may be obtained by patients in West Virginia only through prescriptions written by duly licensed and DEA registered prescribers.

10. “Illicit Opioids” means substances comprised of or containing natural, synthetic, or semisynthetic chemicals that bind to opioid receptors in the brain or body that are not approved by FDA, including, but not limited to, heroin, fentanyl, carfentanil, other fentanyl-type analogs, and counterfeit opioid medications.

11. “Legitimate Opioid Use” means the use of Prescription Opioids according to a prescription made in accordance with the respective FDA-approved warning labels by the person to whom the prescription was provided.

12. “Controlled Substance” means any substance identified as a Schedule I-V substance pursuant to 21 U.S.C. § 812.

13. “Including” or “Includes” means “including, but not limited to,” or “including without limitation.”

14. “Relating to,” “Referring to,” or “Concerning,” when referring to any given subject matter, means any Document that constitutes, comprises, involves, contains, embodies, reflects,

identifies, states, mentions, alludes to, or refers directly or indirectly to the particular subject matter identified.

15. The words “and” as well as “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of these requests any information that might otherwise be construed as falling outside the scope of these requests.

16. Words used in the singular shall, when the context permits, be deemed to include the plural, and words used in the plural shall, when the context permits, be deemed to include the singular. The masculine gender shall, when the context permits, be deemed to include the feminine or neuter genders.

### **TOPICS FOR EXAMINATION**

1. Meetings, including any committees, subcommittees, or taskforces thereof, concerning Your prescribing policies, the prescribing practices of Licensed Medical Professionals affiliated with You, or prescription monitoring.

2. Reports, inquiries, or complaints received from any government officials of the City of Huntington, Cabell County, or any town, village, or city within Cabell County, regarding suspected or actual diversion or misuse of Prescription Opioids by Licensed Medical Professionals affiliated with You.

3. The West Virginia Controlled Substances Monitoring Program (“CSMP”), including, but not limited to, Your use of the CSMP to combat the unlawful prescribing, dispensing, use, misuse, abuse, sale, diversion, production, transportation, distribution, purchase, theft or trafficking of Prescription Opioids or Illicit Opioids within or into the City of Huntington, Cabell County, or any town, village, or city within Cabell County.

4. Formal or informal standards, guidelines, rules, regulations, manuals, training, procedures, or policies related to pain management, including but not limited to the prescribing of

Prescription Opioids, that You have adopted or that You have been asked to adopt from 2001 to the present.

5. Pain and its impact on patient care or prescribing Prescription Opioids.
6. Publications, policies, or other materials produced by You or others related to the use, coverage, and benefits of Prescription Opioids for the treatment of pain.
7. The responsibilities and obligations of Licensed Medical Professionals affiliated with You to treat pain.
8. Professional education, training programs, webinars, and guidelines made or sponsored by You related to the opioid abuse epidemic, or the prescribing and dispensing of Prescription Opioid medications and other controlled substances.
9. Centers for Medicare and Medicaid Services (CMS) guidelines and certification requirements related to pain management, including without limitation patient satisfaction surveys.
10. Reimbursements for pain management treatment, including but not limited to Prescription Opioids, from third-party payors such as but without exclusion CMS, Public Employees Insurance Agency (PEIA), West Virginia Workers' Compensation, and private health insurance companies.

Dated: July 16, 2020

Respectfully submitted,

***AmerisourceBergen Drug Corporation***  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2020, the foregoing *Notice of Videotaped In-Person Rule 30(b)(6) Deposition of Cabell Huntingtin Hospital* was sent to Counsel for the Plaintiffs and Defendants using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Gretchen M. Callas  
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